

Title 14 INDEPENDENT AGENCIES

Subtitle 26 MARYLAND ENERGY ADMINISTRATION

Chapter 02 Green Building Tax Credit Program

Authority: Article 41, §10-722, Annotated Code of Maryland

14.26.02.01

.01 Purpose and Scope.

A. The Maryland Green Building Program encourages building owners, engineers, architects, and developers to construct and operate buildings that are energy efficient, minimize site disturbance, provide high quality indoor environments, conserve water, incorporate recycled and recyclable materials, and incorporate renewable and energy efficient power generation.

B. The Program provides tax credits against the State income tax for certain costs for the construction or rehabilitation of buildings and the purchase of equipment that meets certain energy efficiency and environmental standards.

14.26.02.02

.02 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) ANSI/ASHRAE/IESNA Energy Standard for Buildings Except Low-Rise Residential Buildings I-P Edition (American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 90.1-1999).

(2) LEED(tm) Rating System Version 2.0 Including the Project Checklist (Leadership in Energy & Environmental Design, June 2001).

(3) LEED(tm) for Existing Buildings/The LEED Green Building Rating System (tm) for Improving Building Performance through Upgrades and Operations Version 2.0 Unballoted Draft for Pilot Program (Leadership in Energy and Environmental Design, January 2002).

14.26.02.03

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Maryland Energy Administration.

(2) Allowable costs.

(a) "Allowable costs" means amounts properly chargeable to a capital account, other than for land, that are paid or incurred on or after July 1, 2001, for construction or rehabilitation; commissioning; interest paid or incurred during the construction or rehabilitation period; architectural, engineering, and other professional fees allocable to construction or rehabilitation; closing costs for construction, rehabilitation, or mortgage loans; recording taxes and filing fees incurred with respect to construction or rehabilitation; energy management systems; and finishes and furnishings consistent with the regulations adopted by the Administration under this section, lighting, plumbing, electrical wiring, and ventilation.

(b) "Allowable costs" does not include the cost of telephone systems and computers, other than electrical wiring costs; legal fees allocable to construction or rehabilitation; site costs, including temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities; finishes or furnishings that are not consistent with this chapter; or the cost of purchasing or installing fuel cells, wind turbines, or photovoltaic modules.

(3) "Applicable energy efficiency standards" means ANSI/ASHRAE/IESNA Energy Standard for Buildings Except Low-Rise Residential Buildings, 1-P Edition (American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 90.1-1999).

(4) "Base building" means all areas of a building not intended for occupancy by a tenant or owner, including the structural components of the building, exterior walls, floors, windows, roofs, foundations, chimneys and stacks, parking areas, mechanical rooms and mechanical systems, owner-controlled or owner-operated service spaces, sidewalks, main lobby, shafts, vertical transportation mechanisms, stairways, and corridors.

(5) "Commissioning" means:

(a) The testing and fine-tuning of heating, ventilating, and air-conditioning systems and other systems to assure proper functioning and adherence to design criteria;

(b) The preparation of system operation manuals; and

(c) The instruction of maintenance personnel.

(6) "Credit allowance year" means the later of:

(a) The taxable year during which:

(i) The property, construction, completion, or rehabilitation on which the credit allowed under this chapter is based is originally placed in service; or

(ii) A fuel cell, wind turbine, or photovoltaic module constitutes a qualifying alternate energy source and is fully operational; or

(b) The earliest taxable year for which the credit may be claimed according to the initial credit certificate.

(7) "Eligible building" means a building in Maryland that:

(a) Complies with one of the following:

(i) Is used primarily for nonresidential purposes if the building contains at least 20,000 square feet of interior space;

(ii) Is a residential multifamily building with at least 12 dwelling units that contains at least 20,000 square feet of interior space; or

(iii) Is a combination of the buildings described in §B(7) of this regulation;

(b) In the case of a newly constructed building for which a certificate of occupancy was not issued before July 1, 2001:

(i) Is located on a qualified brownfields site, as defined under Article 83A, §5-1401, Annotated Code of Maryland; or

(ii) Is located in a priority funding area under State Finance and Procurement Article, §5-7B-02, Annotated Code of Maryland, and is not located on wetlands whose alteration requires a permit under Section 404 of the Federal Clean Water Act, 33 U.S.C. §1344; and

(c) In the case of a rehabilitation of a building:

(i) Is located in a priority funding area under State Finance and Procurement Article, §5-7B-02, Annotated Code of Maryland or on a qualified brownfields site as defined under Article 83A, §5-1401, Annotated Code of Maryland; or

(ii) Is not an increase of more than 25 percent in the square footage of the building.

(8) "Green base building" means a base building that is part of an eligible building and meets the requirements of this chapter.

(9) "Green tenant space" means tenant space in a building if a building is an eligible building and the tenant space meets the requirements of this chapter.

(10) "Green whole building" means a building for which the base building is a green base building and all tenant space is green tenant space.

(11) "LEED" means Leadership in Energy and Environmental Design.

(12) "Qualifying alternate energy sources" means building integrated and non building- integrated photovoltaic modules, wind turbines, and fuel cells installed to serve the base building or tenant space that:

(a) Have the capability to monitor their actual power output;

(b) Are fully commissioned upon installation, and annually thereafter, to ensure that the systems meet their design specifications; and

(c) In the case of wind turbines, meet any applicable noise ordinances.

(13) "Tenant improvements" means improvements necessary or appropriate to support or conduct the business of a tenant or occupying owner.

(14) "Tenant space" means the portion of a building intended for occupancy by a tenant or occupying owner.

(15) "USGBC" means the United States Green Building Council.

14.26.02.04

.04 Green Whole Buildings, New Construction: Standards and Methods For Determining Compliance.

A. A green whole building, newly constructed, is a building that:

(1) Uses not more than 65 percent of the energy attributable to a reference building which meets the requirements of applicable energy efficiency standards under ASHRAE 90.1-1999;

(2) At a minimum, is certified as meeting the requirements to qualify for a rating of "Silver" in the LEED Rating System Version 2.0; and

(3) Is certified as meeting the requirements to qualify for the following credits in the LEED Rating System Version 2.0:

(a) Sustainable Sites, Credit 8, Light Pollution Reduction;

(b) Water Efficiency, Credit 3.1, Water Use Reduction; and

(c) Materials and Resources, Credit 2.1, Construction Waste Management.

B. A green whole building shall comply with all applicable State, county, and local regulations governing the construction of a building and related processes.

14.26.02.05

.05 Green Whole Buildings, Rehabilitated: Standards and Methods For Determining Compliance.

A green whole building, rehabilitated, is a building that:

A. Meets the following requirements:

(1) Uses no more than 75 percent of the energy attributable to a reference building which meets the requirements of applicable energy efficiency standards under ASHRAE 90.1-1999;

(2) At a minimum, is certified as meeting the requirements to qualify for a rating of "Silver" in the LEED Rating System Version 2.0; and

(3) Is certified as meeting the requirements to qualify for two of the three following credits in the LEED Rating System Version 2.0:

(a) Sustainable Sites, Credit 8, Light Pollution Reduction;

(b) Water Efficiency, Credit 3.1, Water Use Reduction; and

(c) Materials and Resources, Credit 2.1, Construction Waste Management; or

B. Meets the following requirements:

(1) Uses not more than 75 percent of the energy attributable to a reference building which meets the requirements of applicable energy efficiency standards under ASHRAE 90.1-1999;

(2) At a minimum, is certified as meeting the requirements to qualify for a rating of "Silver" in the USGBC's LEED for Existing Buildings/The LEED Green Building Rating System for Improving Building Performance through Upgrades and Operations Version 2.0 Unballoted Draft for Pilot Program (Leadership in Energy and Environmental Design, January 2002); and

(3) Is certified as meeting the requirements to qualify for the following credits in the LEED for Existing Buildings/The LEED Green Building Rating System for Improving Building Performance through Upgrades and Operations Version 2.0 Unballoted Draft for Pilot Program (Leadership in Energy and Environmental Design, January 2002):

(a) Sustainable Sites, Credit 8, Light Pollution Reduction;

(b) Water Efficiency, Credit 3 (1 point), Water Use Reduction; and

(c) Materials and Resources, Credit 2.1, Construction Waste Management.

14.26.02.06

.06 Green Base Buildings: Standards and Methods For Determining Compliance.

A. A green base building, newly constructed, is a building that:

(1) Uses not more than 65 percent of the energy attributable to a reference building that meets the requirements of applicable energy efficiency standards under ASHRAE 90.1-1999;

(2) Is certified as having attained a minimum of "Silver" in the LEED Rating System Version 2.0; and

(3) Is certified as meeting the requirements to qualify for two of the three following credits in the LEED Rating System Version 2.0:

(a) Sustainable Sites, Credit 8, Light Pollution Reduction;

(b) Water Efficiency, Credit 3.1 Water Use Reduction; and

(c) Materials and Resources, Credit 2.1, Construction Waste Management.

B. A green base building, rehabilitated, is a building that:

(1) Uses not more than 75 percent of the energy attributable to a reference building that meets the requirements of applicable energy efficiency standards under ASHRAE 90.1-1999;

(2) Is certified as having attained a minimum of "Silver" in the USGBC's LEED for Existing Buildings/The LEED Green Building Rating System for Improving Building Performance through Upgrades and Operations Version 2.0 Unballoted Draft for Pilot Program (Leadership in Energy and Environmental Design, January 2002); and

(3) Is certified as meeting the requirements to qualify for the following credits as outlined in the LEED for Existing Buildings/The LEED Green Building Rating System for Improving Building Performance through Upgrades and Operations Version 2.0 Unballoted Draft for Pilot Program (Leadership in Energy and Environmental Design, January 2002):

- (a) Sustainable Sites, Credit 8, Light Pollution Reduction;
- (b) Water Efficiency, Credit 3 (1 point), Water Use Reduction; and
- (c) Materials and Resources, Credit 2, Construction Waste Management.

C. A green base building, newly constructed or rehabilitated, shall comply with all applicable State, county, and local regulations governing the construction of a building and related processes.

14.26.02.07

.07 Initial Credit Certificate.

A. On application by a taxpayer, the Administration shall issue an initial credit certificate if the taxpayer has made a showing that the taxpayer is likely within a reasonable time to place in service property for which a credit under this chapter is allowed.

B. The Administration may require the taxpayer to provide additional information as necessary.

C. In determining the amount of credits, a cost paid or incurred may not be the basis for more than one credit.

D. The initial credit certificate shall state:

- (1) The maximum amount of credit allowable in the aggregate for all credits allowed under this section;
- (2) The earliest taxable year for which the credit may be claimed; and
- (3) An expiration date.

E. The initial credit certificate shall apply only to property placed in service on or before the expiration date. The Administration may extend the expiration date to avoid unwarranted hardship.

14.26.02.08

.08 Eligibility Certificate.

A. Beginning with the taxable year after December 31, 2002, for each taxable year for which a taxpayer claims a credit, the taxpayer shall obtain an eligibility certificate from an architect or professional engineer who:

(1) Is licensed to practice in Maryland; and

(2) Has passed the USGBC's LEED Professional Accreditation Exam.

B. If the taxpayer is claiming a tax credit for a building, the eligibility certificate shall, under the seal of the architect or professional engineer, certify that the property that is the basis for the credit:

(1) Is in service; and

(2) Is a green base building or a green whole building that meets the requirements of this chapter.

C. If the taxpayer is claiming a credit for a qualifying alternate energy source, the eligibility certificate shall certify that the fuel cell, wind turbine, photovoltaic module, or one or more of them, is fully operational.

14.26.02.09

.09 Filing.

The taxpayer shall file the eligibility certificate and the initial credit certificate with the taxpayer's income tax return.